

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMERICAN MEDICAL RESPONSE
AMBULANCE SERVICE, INC.
Employer

and

Case 28-RC-74676

NATIONAL EMERGENCY MEDICAL
SERVICES ASSOCIATION
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹

MARK GASTON PEARCE, CHAIRMAN

SHARON BLOCK, MEMBER

Member Flynn, dissenting:

I would grant review. Procedurally, I disagree with my colleagues that the Employer failed to object to the hearing officer's exclusion of the Employer's evidence showing the extent to which its relief supervisors exercise Section 2(11) authority. The Employer drew the Regional Director's attention to the relevant procedural facts, which speak for themselves. But even assuming otherwise, the Employer certainly raises the procedural issue to us, and I would treat that aspect of its request for review as, effectively, a motion to reopen the record, which I would grant. Substantively, the Employer contends, based on the evidence the hearing officer improperly rejected, that its relief supervisors are part-time supervisors under the Board's "regular and substantial"

¹ We find that the issue of whether the hearing officer erred in not receiving the Employer's proffered evidence into the record is not properly before us because the Employer did not assert, in its post-hearing brief to the Regional Director, that the hearing officer erred by refusing to accept the evidence. Nonetheless, even assuming that the hearing officer erred in closing the record without receiving the Employer's evidence, we have reviewed the record, including the documents appended to the Employer's brief, and find that this evidence would not warrant a result different than that reached by the Regional Director.

test. I agree that the relief supervisors exercise Section 2(11) authority a substantial amount of the time. Whether they also do so on a sufficiently regular basis under applicable Board precedent presents a more difficult factual and legal issue. I would grant review to take a closer look.

TERENCE F. FLYNN,

MEMBER

Dated, Washington, D.C. April 19, 2012.